

J715911c

phone conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 IN RE: TERRORIST ATTACKS ON
4 SEPTEMBER 11, 2001,

5 v.

03 MDL 1570 (SN)

-----x

6 New York, N.Y.
7 July 1, 2019
11:00 a.m.

8 Before:

9 HON. SARAH NETBURN,

10 Magistrate Judge
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

J715911c

phone conference

APPEARANCES

KREINDLER & KREINDLER
Attorneys for Plaintiff
BY: ANDREW J. MALONEY

MOTLEY RICE
Attorneys for Plaintiff
BY: ROBERT T. HAEFELE

COZEN O'CONNOR
Attorneys for Plaintiffs
BY: SEAN CARTER

GOETZ & ECKLAND, P.A.
Attorneys for Defendant WAMY
BY: FREDERICK J. GOETZ

MARK A. THABET
Attorneys for Defendant WAMY
BY: OMAR T. MOHAMMEDI

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.
Attorneys for Defendant Kingdom
BY: DANIEL V. DORRIS

J715911c

phone conference

1 (Phone conference; in chambers)

2 THE COURT: Good morning. This is Judge Netburn on
3 the phone. I am here with a court reporter, most importantly,
4 and my law clerk and interns.

5 What I am going to do is ask that the parties state
6 their appearances for the record. As you all know, I hold
7 conferences in this case in particular by telephone rarely
8 because of the number of people involved, so I'm going to rely
9 on everybody to be particularly sensitive about when somebody
10 speaks and do your best not to interrupt. I will be sure to
11 give everybody an opportunity to be heard.

12 I am also going to ask that before you speak, you
13 identify yourself so that the court reporter can attribute your
14 statements to the correct person. Even if you think everybody
15 knows who you are, please, say your name before you begin to
16 speak.

17 Lastly, I will ask that only those people who
18 anticipate speaking at today's conference state their
19 appearances. I am sure there are lots of folks on the phone
20 listening in but, for efficiency's sake, I think we only need
21 appearances from those people who intend to speak.

22 So, I will begin by asking whoever is on the line from
23 the plaintiff's executive committee to state their appearances
24 for record.

25 MR. CARTER: Your Honor, Sean Carter, Cozen O'Connor

J715911c

phone conference

1 on behalf of the PEC.

2 MR. HAEFELE: Your Honor, Robert Haeefele. I wasn't
3 sure if Sean was on but I'm here, but I think Mr. Carter is
4 going to handle the argument.

5 MR. MALONEY: And, your Honor, Andrew Maloney for
6 plaintiffs.

7 THE COURT: And who is here on behalf of WAMY?

8 MR. MOHAMMEDI: Your Honor, this is Omar Mohammedi.
9 Good morning.

10 THE COURT: Good morning.

11 MR. GOETZ: Good morning, your Honor. Frederick Goetz
12 here for WAMY as well.

13 THE COURT: Thank you.

14 And is somebody on the phone on behalf of the Kingdom?

15 MR. DORRIS: Yes; Dan Dorris from Kellogg, Hansen.

16 THE COURT: Thank you.

17 Anybody else on the call who would like to state an
18 appearance?

19 Great. So, I have in front of me the plaintiffs'
20 letter from June 26th and the letter from WAMY dated June 28th.
21 Those are the two letters that I have in connection with
22 today's conference. I think I understand the underlying facts
23 about what exactly happened and maybe understand why. I think
24 I will begin by addressing you, Mr. Carter, assuming you are
25 taking the lead. If you can tell me where the plaintiffs are

J715911c

phone conference

1 today? You have now had about 27 days with these documents and
2 if you can let me know where you are with respect to
3 translations and whether or not you believe that a deposition
4 going forward next week would be prejudicial.

5 MR. CARTER: Sure, your Honor.

6 Before I get into that, there was a proposal a minute
7 before the phone call started presented by Mr. Mohammedi to
8 Mr. Haefele that may shortcut the discussion today, if it's
9 acceptable to the Court.

10 As I understand it, Mr. Mohammedi indicated a
11 willingness to work with plaintiffs to adjourn the deposition
12 schedule for the week of July 9th, but that the three witnesses
13 who would otherwise be appearing are not available again until
14 October. That would, your Honor, fall outside of the July 31
15 deadline your Honor set for depositions of party witnesses but
16 within the deadline your Honor set for completion of the
17 third-party witnesses so it would not, as I understand it,
18 delay the overall schedule for depositions of the MDL, at least
19 as to the merits defendant.

20 THE COURT: And the PECs are okay taking these
21 depositions into the third-party schedule?

22 MR. CARTER: We are, your Honor. I don't think it
23 will be terribly disruptive and under the circumstances,
24 without getting into the specifics, we do not have translations
25 of these documents at this point in time. Even a small

J715911c

phone conference

1 percentage of them that we had expedited would be coming
2 through until July 4th and we wouldn't have time to analyze
3 those, see how they relate to other documents, do independent
4 research regarding the events discussed in those documents.

5 So, under the circumstances as a practical matter, we
6 see an adjournment is necessary and are willing to accommodate
7 is.

8 THE COURT: Okay.

9 And Mr. Mohammadi, that works for your clients as
10 well, to appear in October for these depositions?

11 MR. MOHAMMEDI: Yes, your Honor. They -- obviously we
12 have no difficulty postponing --

13 THE COURT: Mr. Mohammadi, can you speak up a little
14 bit? It is hard to hear you.

15 MR. MOHAMMEDI: Sorry, your Honor.

16 I said we have been trying to get in touch with the
17 witnesses and trying to find a way. Obviously it is going to
18 cost us money, it is going to cost us a lot of -- rescheduling
19 is not going to be easy but just to, in good faith to
20 accommodate plaintiffs we work with witnesses and with the only
21 problem because of the HAJJ and because of the other scheduling
22 we are not going to be able to appear again until October and
23 we are okay with that, if that is agreeable to the Court.

24 THE COURT: I will approve the agreement of the
25 parties and allow these WAMY depositions to go forward in

J715911c

phone conference

1 October, so long as they happen within the deadline for
2 third-party discovery.

3 MR. MOHAMMEDI: Your Honor, just for clarification,
4 only the first set, which is not the end of July. The end of
5 July are going forward.

6 THE COURT: Correct. That was my understanding as
7 well. It is only the depositions that were scheduled for the
8 week of July 9th. That's my understanding.

9 MR. MOHAMMEDI: Right.

10 THE COURT: Good.

11 MR. MOHAMMEDI: Right.

12 MR. CARTER: Your Honor, this is Sean Carter
13 confirming that's correct from the perspective of the PEC as
14 well.

15 THE COURT: Good.

16 Let me just, one, thank you all for working this issue
17 out on your own; and two, remind you to engage in this process
18 in advance so that there is not a fire drill on my end. I
19 understand that these documents were produced on June 3rd. I
20 don't need to decide whether they were produced in a timely way
21 or not. My understanding is that the PECs wrote their letter
22 to Mr. Mohammedi on June 25th and then the next day filed their
23 letter with the Court. It sounds like this was something that
24 the parties were able to work out, which I appreciate, but I
25 want to make sure that before you come to the Court you are

J715911c

phone conference

1 giving yourselves enough time to have an adequate meet and
2 confer to avoid having to bring an issue to me that all are
3 able to resolve on your own.

4 With that, I think we are adjourned.

5 Anything further from either side?

6 MR. CARTER: No, your Honor.

7 It is Sean Carter, if I can briefly address the timing
8 issue, because I don't want your Honor to think that the PEC
9 sort of sat on this. We do not have Arabic language
10 proficiency with the attorneys representing the plaintiffs and
11 we have a team of consultants who are subject matter experts
12 and do have that Arabic language fluency. It is a robust team
13 and very capable and they've been with us for a very long time
14 but there was a tremendous amount of work in flow already with
15 them related to the four depositions that have occurred in
16 essentially the last two weeks, the emergency production by the
17 King Fahad Mosque, and so we did not get sort of our initial
18 triage on the production until I think it was the 21st of June
19 which was a Friday, and that was because of the endless issues
20 and we pushed it as quickly as we could. But there was a
21 tremendous amount going on from the side of our consultant.

22 THE COURT: Understood. And I know that you all are
23 busy and I am busy with this case as well. I would have
24 preferred that the letter to WAMY happened with more time
25 before the issue was brought to my attention. But, I know that

J715911c

phone conference

1 you all are working hard and juggling a lot of balls but you
2 are not the only one. And so, my only request is that you give
3 yourself enough time to try and resolve the issues on your own.
4 It sounds like you resolved them a minute before today's
5 conference, but hopefully in the future you'll be able to
6 resolve them before it gets to me.

7 All right. With that, everybody enjoy your July 4th
8 holiday if you are celebrating it, and I am sure we will be in
9 touch in the coming weeks.

10 o0o
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25